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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2016

CORAM :

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO

and

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Petition (MD) No.14335 of 2016

and

W.M.P (MD) No.10634 of 2016

A.Mithunchakravarthi

... Petitioner

Vs.

1.The Secretary to Government,
Government of Tamil Nadu,
Fort St., George,
Chennai 600 009.

2.The Director of School Education,
DPI Campus, Chennai 600 006.

3.The Director of Elementary School Education,
DPI Campus, Chennai 600 006.

4.The Chief Educational Officer,
Collectorate Campus,
Theni.

5.The District Elementary Educational Officer,
Collectorate Campus, Theni.

6.R.S.Velmurugan,
The Secretary and Correspondent,
School Management Committee,
Palaniyappa Memorial Higher Secondary School,
Palaniyappa Vidyalaya School, Palanichettipatti,
Theni District.

7.T.K.Sivakumar,
The President of School Management Committee,
Palaniyappa Memorial Higher Secondary School,
Palaniyappa Vidyalaya School, Palanichettipatti,
Theni District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 5 herein to take necessary action against the respondents 6 to 7 on the basis of petitioner's representation dated 5.4.2016 within the time stipulated by this Court.

For Petitioner

: Mr.C.Jeganathan

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondents

1-5

: Mr.V.R.Shanmuganathan,
Special Government Pleader.

**ORDER**

(Order of the Court was made by **NOOTY.RAMAMOohana RAO,J**)

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This writ petition is instituted seeking a writ of mandamus for a direction to the respondents 1 to 5 to initiate action against the respondents 6 and 7 on the basis of the representation said to have been submitted by the petitioner on 05.04.2016.

2.The representation said to have been submitted by the petitioner on 05.04.2016 has been placed at page 181 of the Paper Book filed along with this writ petition. We have perused the said representation. It has classified the allegations of the petitioner into various heads.

3.The first one related to constitution of the school management committee. Except making allegations that members belonging to a particular community alone are made the members of the managing committee, no specific issue warranting interference at the hands of the respondents 1 to 5 in accordance with law, in that respect, has been made out therein.

4.The second allegation relates to collection of capitation fee from the students/their parents. Collection of capitation fee is obviously a prohibited activity. Therefore, care should have been taken to furnish the information in specific. Instead, the writ petitioner made a generalised statement that capitation fee amount Rs.25,000/- to Rs.50,000/- is collected from the students. Such vague allegations can never be probed into or otherwise such probe will lead to a roving enquiry.

5.The next allegation related to filing of false returns of income and expenditure. Even under this head, vague and non specific allegations are made, without bringing out as to which part of the income/source of income has escaped from being brought to the books of accounts or as to how the expenditure has been inflated either.

6.The next allegation related to failure of admission of weaker section students into the school. No effort has been made to demonstrate as to how many students have been granted admission in any particular academic session and as to how many students of the weaker sections have been denied such admission. For instance, as against the 24% of quota, if only 20% belonging to the weaker sections apply and if all of them have been granted admission by the school management, no fault can be attributed to the management of the school for its failure, in such circumstances, to grant admission to the extent of 24%. Question of examining any such allegation would arise, if there is data available, to demonstrate that in spite of 24% or more percentage of students applying for admission but yet, they were denied admission and they were not granted admission to the extent of 24%. Therefore, into a non specific allegation levelled in this regard, we cannot ask the departmental officials to conduct an enquiry either.



7.The next allegation related to non maintenance of proper roster of reservation in the matter of appointment of teaching staff and non teaching staff. The petitioner not being one of the aspirants seeking appointment, and hence, the allegations of this nature, are bound to be examined, as and when the next recruitment process is undertaken by the school management. As it is, before securing permission for the next process of recruitment, the prior permission of the competent authority has to be obtained. It is, at that stage, the competent authority will undertake a scrutiny of the rosters and as to whether the permission sought for by the school management for filling up a particular roster point can be accorded or not.

8.The next allegation pertains to misappropriation of funds and properties of the school management. This is purely an internal matter as to whether the assets of the school have been properly maintained or managed or the income therefrom has been properly derived or not. That is an internal issue between the management and the members of the general body of the society. That cannot be the subject matter of scrutiny by the Government officials.

9.The last allegation related to not securing approval for the buildings and no proper amenities being provided for the students. This allegation again, does not require any serious consideration for the reason that building permissions are granted by the local authority concerned and if a school management has made constructions either without obtaining proper permission from the competent authority or contrary to the permissions so obtained, it is for the competent authority of the local body to take and initiate necessary action against the school management and the departmental officials have no role to play.

10.Insofar as failure to provide proper amenities to the students are concerned, during the inspection of the schools undertaken usually or routinely by the Department all infrastructural amenities will be scrutinised and if there was any deficiency noticed, the same is bound to be brought to the notice of the school management for its information and rectification.

11.Therefore, on the basis of some vague allegations as levelled by the petitioner in his representation, dated 05.04.2016, this Court cannot direct the respondents 1 to 5 to initiate any action against the respondents 6 and 7. Hence, while preserving liberty to the writ petitioner to pursue his remedy which is available otherwise in accordance with law, we dismiss this writ petition, at the admission stage. No costs. Consequently, W.M.P(MD)No.10634 of 2016 is closed.

Sd/

Assistant Registrar(T&P)

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To

- 1.The Secretary to Government,
Government of Tamil Nadu,
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- 2.The Director of School Education,
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- 3.The Director of Elementary School Education,
DPI Campus, Chennai 600 006.
- 4.The Chief Educational Officer,
Collectorate Campus, Theni.
- 5.The District Elementary Educational Officer,
Collectorate Campus, Theni.

+1cc to M/S.C.Jeganathan, Advocate in SR.No.43169
+1cc to Special Government Pleader in SR.No.42949

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and
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